



# San Benito County Office of Education

Krystal Lomanto, County Superintendent of Schools

460 Fifth Street | Hollister | California, 95023 | 831. 637.5393 | Fax 831. 637.0140

## Memorandum

To: Individuals Requesting an Appeal Hearing Regarding Denial of an Interdistrict Attendance Agreement

From: Monica P. Barragan, Executive Administrative Assistant

Subject: Appeal of Denial of Interdistrict Attendance Agreement

Thank you for your inquiry about the appeal of denial of an Interdistrict Attendance Agreement. I have enclosed the following information for your review:

- Interdistrict Attendance Appeal Handbook
- Board of Education Policy 5175-Interdistrict Attendance Appeals
- Copies of Education Code Sections Relating to Interdistrict Attendance
- Appeal of Denial of Interdistrict Attendance Agreement Form

Once you have had an opportunity to review the enclosed material, please contact me at the County Office of Education if you would like to schedule an appointment with the County Superintendent of Schools, to discuss your request for an appeal hearing by the San Benito County Board of Education.

Listed below are the forms that you will need to file with this office (as one packet) for a request for an appeal hearing before the County Board of Education:

- The Appeal of Denial of Interdistrict Attendance Agreement Form (the last page of the information packet).
- A letter from the parent(s) explaining, in detail, the reason(s) for requesting an appeal hearing before the County Board of Education (please refer to one or more of the Board's three criteria).
- A copy of the initial Interdistrict Transfer Request submitted to the District of Residence and/or the District of Desired Attendance.
- A copy of the denial letter from either the District of Residence or the District of Desired Attendance.
- A letter from the District of Desired Attendance indicating that the District has space at the student's grade level and accepts the student if the Interdistrict Transfer Appeal is approved.
- Any other information that you would like to have included with the information packet that serves as evidence or proof for the reason(s) you are requesting this appeal hearing.

Please don't hesitate to contact this office should you have questions regarding the paperwork or the process for requesting an interdistrict attendance appeal hearing.

mpb

Enclosures





**San Benito County Office of Education**  
**Krystal Lomanto**  
**County Superintendent of Schools**

---

460 Fifth Street | Hollister | California 95023 | 831. 637.5393 | Fax 831.637.0140

**INTERDISTRICT**  
**APPEAL PROCESS**  
**H A N D B O O K**

Revised: 9-2017



## *A Message from the San Benito County Board of Education*

A statutory responsibility of the San Benito County Board of Education is to rule on interdistrict transfers when either the district of residence or district of requested attendance object to the transfer, and a child's legal guardian appeals the denial of such request. The appeal procedures may seem complicated and intimidating; therefore, this brochure has been developed to explain the steps of an interdistrict appeal. The goal is to inform members of the community of the required procedures, decision-making criteria, and other aspects of the interdistrict appeal process.

The Board strives to make fair and equitable decisions based on the application of the decision-making criteria to the case brought before the Board. The more completely a case is prepared, the less stressful the presentation and the more satisfied all parties will be with the Board's decision.

### **When to Request An Interdistrict Attendance Appeal Hearing**

You may request an appeal hearing with the San Benito County Board of Education:

1. After a request for an interdistrict transfer has been denied by the district of residence or by the district of requested attendance AND the appeal process of the denying district(s) has been exhausted.

The appeal process for each district may vary, so a check with the denying district for its appeal procedure will be necessary.

OR

2. When the district(s) has failed to respond to the request for a transfer within thirty (30) calendar days (E.C. 46601).

NOTE: If a student is under an expulsion order, the denial by a requested district may not be appealed.

### **How to Request a Hearing**

The person having legal custody of the pupil can begin the appeal process by requesting an "Appeal of Denial of Interdistrict Attendance" form from the San Benito County Office of Education. This request may be done:

#### **IN PERSON**

460 Fifth Street, Hollister

#### **BY PHONE**

(831) 637-5393 ext. 126

This form must be requested, completed, signed, and returned within thirty (30) days of the denial of your "Request for An Interdistrict Appeal." Complete all sections of the form legibly. Read the section of this handbook entitled "What Will the Board Consider?" before completing "The reasons for this request" section of the form. The reason(s) for your appeal must be the same as those stated on the original "Request for An Interdistrict Appeal" form; should the reasons change substantially, you will be asked to reapply with your district. Your completed appeal form should be submitted with a copy of your original "Request for An Interdistrict Appeal" and the district's denial, as well as any other supporting documentation you are providing for the Board's consideration.

If you have any questions about completing the form, you may contact the San Benito County Office of Education, (831) 637-5393.

## **What Happens Next?**

Within ten (10) days of receipt of your appeal, the San Benito County Office of Education will notify you and the district(s) involved of the date, time, and place of the appeal hearing. The Board of Education has thirty (30) days after you file to conduct a hearing and determine where the pupil shall attend school. The Board may extend this period an additional five (5) days for good cause (E.C. 46601(c)(2)(B)). After you have filed your appeal you will be contacted by the County Superintendent of Schools or his/her representative:

1. The County Superintendent of Schools or his/her representative will attempt to facilitate a resolution between you and the districts involved prior to the hearing.
2. The County Superintendent of Schools or his/her representative will review the case to determine that all rights and time lines have been honored prior to the hearing.
3. If a hearing is necessary, the County Superintendent of Schools or his/her representative will provide any additional information deemed useful to the county board of education in reaching a decision. (E.C. 46601(c)(3)).
4. The County Superintendent of Schools or his/her representative is available to explain your rights and the procedures for your case.
5. The County Superintendent of Schools or his/her representative may recommend or request that you make certain materials or documents available for his/her consideration or for the hearing, to assist the Board of Education in making its determination.

## **What Will Happen At the Hearing?**

Hearings are conducted during the regular or special San Benito County Board of Education meetings held at:

San Benito County Office of Education  
460 Fifth Street  
Hollister, California 95023

The Board president shall preside over the hearing which will be conducted in open session unless one or more of the following circumstances exists, in which case that portion of the appeal will be conducted in closed session:

- When the appeal includes material information of a confidential nature concerning the student for whom the transfer is requested, and the parent or legal guardian does not agree to waive the student's confidentiality right but instead requests to hear the matter in closed session.
- When the appeal includes information of a confidential nature concerning another identifiable student
- When the appeal includes complaints or charges against identifiable staff members.

It is the intent of the Board of Education to conduct the hearing in a fair and sufficiently informal manner to encourage open communication and understanding of the system. The hearing will also be conducted in such a manner that no special legal expertise is necessary and so that all parties have the opportunity to present their case fairly and completely. The law does provide that you may have legal counsel or an advocate present if you wish, although formal hearing procedures are not in effect.

Families with multiple appeals may have them heard separately or as one; parents should understand that if they have all their children's appeals heard as one, that there will only be one decision affecting all the children.

When your appeal comes up on the agenda, you, the student (optional), the representatives of the districts, and the County Superintendent of Schools, or his representative will take seats at a table in front of the Board. The County Superintendent of Schools or his/her representative will act as an advisor to all parties, and you may feel free to ask the County Superintendent of Schools or his/her representative for assistance if you have concerns or questions during the hearing.

The Hearing is conducted as follows:

1. After introduction of all parties, the Board President will conduct the proceedings.
2. The pupil, the parent or guardian, or a representative of the pupil will present the reasons for requesting the pupil attend the district of requested attendance.
3. A representative of the district of residence shall describe the actions taken by that district.
4. A representative of the district of requested attendance shall describe any actions taken by the district pertaining to the request.
5. Members of the Board may then ask questions to further clarify the issues. The County Superintendent of Schools or his/her representative may, at this time, present any factual information or legal consideration not already covered by others present.
6. The hearing will be closed by a motion approved by a majority of the Board.
7. Following the closing of the hearing, the Board will publicly deliberate the matter.
8. When the Board President determines that deliberations are complete, he/she will then call for a vote. A majority must vote "yes" for the appeal to be granted.

If the Board determines that the pupil should be permitted to attend in the district of requested attendance, then the pupil will be admitted without delay (E.C. 46602). The Board may order attendance in a district, but not in a specific school.

### **How Do I Prepare for the Hearing?**

Adequate documentation is helpful when presenting your case. You will find that evidence is most effective when provided in writing, is related to the issue(s) at hand, and is the type of evidence upon which reasonable persons can rely in the conduct of serious affairs. Some examples are:

1. A copy of your original "Request for An Interdistrict Permit" form and any written denial(s). (Include these with all appeals.)
2. Professional recommendations by doctors, educators, psychologists, or others, when relevant.
3. Documentation related to your child's safety to and from school.

4. Report cards or other indicators of student performance.

When preparing your verbal presentation you should focus on the factors that the Board will consider in approving an appeal (see Approval items 1-3 under "What Will the Board Consider?"). It may also be helpful to bring a witness or someone who might make a special statement on behalf of the student.

### **What Will the Board Consider?**

In its discussion and deliberations on your appeal, the Board will consider the conditions of, and your reasons for, requesting a transfer.

The Board has certain guidelines which help it in its deliberations.

### **DENIAL**

If the Board finds that any of the following conditions exist in your case, then it may deny your appeal (San Benito County Board of Education Policy #5175):

1. The pupil is under suspension or expulsion by the district of his/her residence or any other district.
2. Attendance of a pupil from out-of-district will increase a district's class size above the maximums established by the State of California or above the maximums provided for in an agreement between the governing board of the district and a representative of an employee bargaining unit.
3. The pupil, or the parent or guardian of the pupil, has falsely claimed residence in a given school district for the purpose of school attendance in that district.
4. The pupil, or the parent or guardian of the pupil, has not exhausted the interdistrict appeal process in the denying district(s).
5. The pupil, or the parent or guardian of the pupil, has not shown that attendance in the requested district is necessary.
6. Failure to appeal within thirty (30) calendar days of the denial.

## APPROVAL

Persons making appeals usually feel strongly about their reasons. It is helpful to understand that the Board may only legally approve an appeal if it meets one or more of the three (3) reasons below. When writing your appeal and making your presentation to the Board, consider how the reasons apply to your situation (San Benito County Board of Education Policy No. 5175):

1. A substantial danger to the pupil's health or safety to and from school in the district of his/her residence would be removed or substantially mitigated by his/her attendance in another district. (Any professional opinion offered to substantiate conditions unfavorable to the health or safety of the pupil must be submitted in writing.)
2. The district's decision to deny the interdistrict attendance permit, or failure or refusal to enter into an interdistrict attendance agreement, violates federal and/or state laws, or the district's own policies and regulations, or the district's existing interdistrict attendance agreement.
3. The district's decision to deny the interdistrict attendance permit, or failure or refusal to enter into an interdistrict attendance agreement, was made arbitrarily or capriciously such that the decision is unfairly and overly prejudicial to the applicant.

Written notice of the decision by the County Board of Education shall be mailed to the pupil and the parent or guardian, or person having custody of him/her, and to the governing boards of the districts (E.C. 46602(b)).

## INTERDISTRICT ATTENDANCE APPEALS

**Authority** The San Benito County Board of Education (County Board) is authorized by law to decide interdistrict appeals and to adopt rules and procedures in the conduct of the appeal hearings. [Education Code Section 46601 et seq.]

**School Assignment** By law, pupils are required to attend the schools of the school district in which their parents or legal guardians reside. If there are special circumstances for the pupil to attend a school outside his / her assigned school district and if the receiving district is willing to accept the transfer, then the parent or the person having legal custody of the pupil must file a request for an interdistrict transfer with the pupil's home district.

**Right of Appeal** If, within 30 calendar days of filing a request for interdistrict transfer, the governing board of either school district denies or refuses or fails to act on the request for interdistrict transfer, the district denying the request shall advise the person requesting the transfer of the right to appeal to the County Board. Failure to appeal within thirty (30) days of the decision to deny the transfer is cause for denial of the appeal.

If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the district denying the transfer, or refusing or failing to act, shall have jurisdiction for the appeal. If both districts deny the transfer, the county board of education having jurisdiction over the district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's request, shall seek concurrence in the decision by the county board of education of the other county. If the two county boards of education do not then concur, the pupil's appeal shall be denied.

An appeal shall be accepted by the County Board only upon verification that appeals within the districts have been exhausted. [Education Code (EC) Section 46601(a)]. It is the expectation of the County Board that the district governing board would render the final decision in these matters.

Students who are under consideration for expulsion, or who have been expelled, may not appeal interdistrict attendance denials while the expulsion proceedings are pending or during the term of the expulsion.

**Appeal Process** The appeal shall be initiated by filing the appeal using the form provided in the San Benito County Office of Education's *Interdistrict Appeal Process Handbook*.

If the parent/legal guardian wishes to have the County Board consider sensitive personal information such as school or medical records, he/she must sign a waiver to that effect. Sensitive personal information which is pertinent to the appeal shall not be disclosed at the open session of the County Board hearing, but will be included in the written report and may be discussed at a closed session of the County Board hearing. [EC 49076]

The effective date of the appeal shall be the date on which the completed and signed appeal document is received by the County Superintendent. As soon as possible, the County Superintendent will verify the information contained in the appeal, including the actions of the

districts involved. If the written appeal is complete in all respects, the County Superintendent will place the matter on the agenda of a regular or special meeting of the County Board to be held no later than thirty (30) days following the effective date of the appeal.

**Schedule for the Appeal Hearing** The County Board shall conduct a hearing within thirty (30) days after the appeal is filed to determine whether the student should be permitted to attend school in the district of desired attendance. If it is impractical for the County Board to comply with the time requirement for hearing, the County Board may for good cause extend the time period for up to an additional five (5) school days.

No later than ten (10) days prior to the hearing, the County Superintendent is required by law to notify you of the date, time and place of the hearing, the opportunity to submit written statements and documentation, and to be heard on the matter.

**Disposition of Appeal** Disposition of the interdistrict attendance appeals shall be based upon the following presumptions:

1. A pupil is normally required to attend school in the district in which the parents or legal guardian reside, unless the desired district of attendance offers open enrollment in accordance with Education Code Sections 48209-48209.16
2. A request for attendance in a district other than the district of residence ordinarily will be settled by the governing board of the two (2) districts involved.
3. Only in extraordinary situations should the County Board reverse the decision of a school district governing board.

**Consideration in Regard to Appeal** In considering interdistrict attendance appeals, the Board will review the basis for local board precedent actions which give rise to the appeal and determine whether there are unusual conditions which justify intercession of the Board. Such conditions must involve the educational and/or health interests of the pupil.

**Criteria Which May Be Used** The County Board will consider the following:

1. A substantial danger to the pupil's health or safety to and from school in the district of his/her residence would be removed or substantially mitigated by his/her attendance in another district. (Any professional opinion offered to substantiate conditions unfavorable to the health or safety of the pupil must be submitted in writing.)
2. The district's decision to deny the interdistrict attendance permit, or failure or refusal to enter into an interdistrict attendance agreement, violates federal and/or state laws, or the district's own policies and regulations, or the district's existing interdistrict attendance agreement.
3. The district's decision to deny the interdistrict attendance permit, or failure or refusal to enter into an interdistrict attendance agreement, was made arbitrarily or capriciously such that the decision is unfairly and overly prejudicial to the applicant.

**Hearing Procedure** The County Board will consider the appeal in an open session. In order to prevent disclosure of the confidentiality of the student's record information, the hearing may be closed only for that portion of the hearing. [EC 49076] The County Board President, or designee, shall conduct the proceedings. All discussion shall be directed to the County Board President or to a County Board member in response to an inquiry. The following procedures will be followed:

1. Introduction of all interested parties.
2. The parent/guardian, or the pupil, and/or a representative of the pupil will present the reasons for applying for an interdistrict attendance agreement to the district of desired attendance and other actions, if any, taken by the respective school districts.
3. The district of residence will be given an opportunity to describe the actions taken by that district and the reasons therefore.
4. Members of the County Board may question any of the parties, the staff and/or legal counsel at any time during the hearing.
5. When all parties have completed their presentations, the County Board President will declare the hearing ended. The County Board shall then deliberate and determine its position on the appeal.
6. The County Board shall either grant or deny the appeal on its merits. However, if new evidence or grounds for the request are introduced, the County Board may remand the matter to the district(s) for further consideration.
7. An affirmative vote of three (3) members of the County Board is required to grant the appeal.

**Final Order of the Board** All parties, including the appropriate agencies, will be notified in writing of the decision of the County Board. The decision of the County Board shall be final and binding upon the appellant and the districts. The order shall become final when rendered.

Legal Reference

EDUCATION CODE:

35116	Governing board powers and duties
46600-46611	Interdistrict attendance appeals and agreements
48204	Residency requirements for school attendance
48209-48209.17	Student attendance alternatives
48301	Interdistrict transfers; restrictions upon pupil transfers
48303	Annual outbound transfers of pupils; school district limits
49073-49079	Privacy of student records

GOVERNMENT CODE

54950-54962	Ralph M. Brown Act (re: closed sessions)
-------------	--

Policy Adopted: 9-8-81

Policy Reviewed: 10-13-83; 6-27-85; 9-14-17

# **Education Code Sections 46600-46611**

## **Interdistrict Attendance**

### **§46600**

(a) (1) The governing boards of two or more school districts may enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the school districts. The agreement may provide for the admission to a school district other than the school district of residence of a pupil who requests a permit to attend a school district that is a party to the agreement and that maintains schools and classes in kindergarten or any of grades 1 to 12, inclusive, to which the pupil requests admission. Once a pupil in kindergarten or any of grades 1 to 12, inclusive, is enrolled in a school pursuant to this chapter, the pupil shall not have to reapply for an interdistrict transfer, and the governing board of the school district of enrollment shall allow the pupil to continue to attend the school in which he or she is enrolled, except as specified in paragraphs (2) and (4).

(2) The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. The agreement may contain standards for reapplication agreed to by the school district of residence and the school district of enrollment that differ from the requirements prescribed by paragraph (1). The agreement may stipulate terms and conditions established by the school district of residence and the school district of enrollment under which the permit may be revoked.

(3) The supervisor of attendance of the school district of residence shall issue an individual permit verifying the school district's approval, pursuant to policies of the governing board of the school district and terms of the agreement for the transfer. A permit shall be valid upon concurring endorsement by the designee of the governing board of the school district of proposed enrollment. The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the school district of enrollment.

(4) Notwithstanding paragraph (2), a school district of residence or school district of enrollment shall not rescind existing transfer permits for pupils entering grade 11 or 12 in the subsequent school year.

(b) A pupil who has been determined by personnel of either the school district of residence or the school district of proposed enrollment to have been the victim of an act of bullying, as defined in subdivision (r) of Section 48900, committed by a pupil of the school district of residence shall, at the request of the person having legal custody of the pupil, be given priority for interdistrict attendance under any existing interdistrict attendance agreement or, in the absence of an agreement, be given additional consideration for the creation of an interdistrict attendance agreement.

(c) In addition to the requirements of subdivision (e) of Section 48915.1, and regardless of whether an agreement exists or a permit is issued pursuant to this section, any school district may admit a pupil expelled from another school district in which the pupil continues to reside.

(d) (1) Notwithstanding any other law, and regardless of whether an agreement exists or a permit is issued pursuant to this section, a school district of residence shall not prohibit the transfer of a pupil who is a child of an active military duty parent to a school district of proposed enrollment if the school district of proposed enrollment approves the application for transfer.

(2) (A) For purposes of this subdivision, "active military duty parent" means a parent with full-time military duty status in the active uniformed service of the United States, including members of the National Guard and the State Military Reserve on active duty orders pursuant to Chapter 1209 (commencing with Section 12301) and Chapter 1211 (commencing with Section 12401) of Part II of Subtitle E of Title 10 of the United States Code.

(B) For purposes of this subdivision, “parent” means the natural or adoptive parent or guardian of a dependent child.

**§46601** (becomes inoperative on July 1, 2018)

(a) If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term, or, in the absence of an agreement between the school districts, fails or refuses to enter into an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(b) If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each school district not later than 30 calendar days before the commencement of instruction in that term in that school district, the governing board of either school district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the school districts to permit that attendance, fails or refuses to enter an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(c) Notifying school districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of the following:

(1) The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the school district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the county board of education’s designee that appeals within the school districts have been exhausted. If new evidence or grounds for the request are introduced, the county board of education may remand the matter for further consideration by the school district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2) (A) (i) The county board of education shall, unless clause (ii) applies, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of attendance.

(ii) The county board of education in a class 1 or class 2 county shall, within 40 schooldays after the appeal is filed, determine whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of attendance.

(B) In the event that compliance by the county board of education within the time requirement for determining whether the pupil should be permitted to attend in the school district in which the pupil desires to attend is impractical, the county board of education or the county superintendent of schools, for good cause, may extend the time period for up to an additional five schooldays. The county board of education shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education in accordance with this chapter. The county board of education’s rules may provide for the granting of continuances upon a showing of good cause. The

county board of education shall render a decision within three schooldays of any hearing conducted by the county board of education unless the person who filed the appeal requests a postponement.

(C) In a class 1 or class 2 county, the county board of education's rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative panel of three or more certificated persons appointed by the county board of education. Section 27722 of the Government Code applies to a hearing by an impartial administrative panel and, for purposes of this section, the term "hearing officer" in Section 27722 of the Government Code includes an impartial administrative panel. A member of the impartial administrative panel shall not be a member of the county board of education, nor be employed by the school district of residence or the school district of desired attendance.

(D) The definitions of "class 1 county" and "class 2 county" in subdivision (e) of Section 48919.5 apply to this section. If the hearing officer is not authorized to decide whether the pupil should be permitted to attend in the school district in which the pupil desires to attend, the county board of education, within 10 days of receiving the recommended decision pursuant to subdivision (b) of Section 27722 of the Government Code, shall render a decision.

(3) The county supervisor of attendance, or other designee of the county superintendent of schools, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the county board of education in reaching a decision.

(4) If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the school district denying a permit, or refusing or failing to enter into an agreement to allow for the issuance of a permit, shall have jurisdiction for purposes of an appeal. If both school districts deny a permit, or refuse or fail to enter into an agreement to allow for the issuance of a permit, the county board of education having jurisdiction over the school district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the county board of education of the other county that shall provide adequate opportunity for the school district under its jurisdiction to be heard on the matter before making a decision. If the two county boards of education do not then concur, the pupil's appeal shall be denied.

(5) Pupils who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

(d) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

**§46601** (becomes operative on July 1, 2018)

(a) If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term, or, in the absence of an agreement between the school districts, fails or refuses to enter into an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(b) If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each school district not later than 30 calendar days before the commencement of instruction in that term in that

school district, the governing board of either school district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the school districts to permit that attendance, fails or refuses to enter an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(c) Notifying school districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of the following:

(1) The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the school district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the county board of education's designee that appeals within the school districts have been exhausted. If new evidence or grounds for the request are introduced, the county board of education may remand the matter for further consideration by the school district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2) (A) The county board of education shall, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of attendance.

(B) In the event that compliance by the county board of education within the time requirement for determining whether the pupil should be permitted to attend in the school district in which the pupil desires to attend is impractical, the county board of education or the county superintendent of schools, for good cause, may extend the time period for up to an additional five schooldays. The county board of education shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education in accordance with this chapter. The county board of education's rules may provide for the granting of continuances upon a showing of good cause. The county board of education shall render a decision within three schooldays of any hearing conducted by the county board of education unless the person who filed the appeal requests a postponement.

(C) In a class 1 or class 2 county, the county board of education's rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative panel of three or more certificated persons appointed by the county board of education. Section 27722 of the Government Code applies to a hearing by an impartial administrative panel and, for purposes of this section, the term "hearing officer" in Section 27722 of the Government Code includes an impartial administrative panel. A member of the impartial administrative panel shall not be a member of the county board of education, nor be employed by the school district of residence or the school district of desired attendance.

(D) The definitions of "class 1 county" and "class 2 county" in subdivision (e) of Section 48919.5 apply to this section. If the hearing officer is not authorized to decide whether the pupil should be permitted to attend in the school district in which the pupil desires to attend, the county board of education, within 10 days of receiving the recommended decision pursuant to subdivision (b) of Section 27722 of the Government Code, shall render a decision.

(3) The county supervisor of attendance, or other designee of the county superintendent of schools, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the county board of education in reaching a decision.

(4) If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the school district denying a permit, or refusing or failing to enter into an agreement to allow for the issuance of a permit, shall have jurisdiction for purposes of an appeal. If both school districts deny a permit, or refuse or fail to enter into an agreement to allow for the issuance of a permit, the county board of education having jurisdiction over the school district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the county board of education of the other county that shall provide adequate opportunity for the school district under its jurisdiction to be heard on the matter before making a decision. If the two county boards of education do not then concur, the pupil's appeal shall be denied.

(5) Pupils who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

(d) This section shall become operative on July 1, 2018.

#### **§46602**

(a) If the county board of education determines that the pupil should be permitted to attend in the school district in which he or she desires to attend, the pupil shall be admitted to school in the school district without delay and the attendance may be counted by the school district of attendance for state apportionment purposes.

(b) Written notice of the decision by the county board of education shall be delivered to the pupil and the parent or guardian, or person having custody of him or her, and to the governing boards of the school districts.

#### **§46603**

(a) For a period not to exceed two school months, the governing board of a school district may provisionally admit to the schools of the school district a pupil who resides in another school district, pending a decision of the two governing boards of the school districts, or by the county board of education upon appeal, regarding the interdistrict attendance.

(b) Regardless of whether the decision on interdistrict attendance is allowed, the provisional attendance may be counted by the school district of attendance for state apportionment purposes.

#### **§46604**

If the governing board of a school district in which pupils reside who are lawfully attending in another district fails or refuses to pay, when due, the amount required to be paid to the district of attendance for the education of those pupils under any provision of this code, the county superintendent of schools having jurisdiction over the district of residence shall draw a requisition against the funds of the district of residence in favor of the district of attendance in payment of that amount and transmit the requisition to the governing board of the district of attendance.

#### **§46606**

(a) A regional occupational program or regional occupational center maintained by a school district, county superintendent of schools, or a regional occupational program or regional occupational center maintained

by two or more school districts pursuant to a joint powers or cooperative agreement, may admit pupils who reside outside the attendance area of the regional occupational program or regional occupational center.

(b) The average daily attendance for attendance of pupils who reside outside of the regional occupational center or program attendance area and are enrolled in a regional occupational center or program pursuant to Section 52317 shall be credited to the regional occupational center or program that incurs the training costs for purposes of determining state apportionments and the revenue limits.

(c) For purposes of computing the revenue limits for pupils who enroll in a regional occupational center or program outside their district of residence, the regional occupational center or program shall claim its own revenue limit.

(d) The regional occupational center or program is not eligible for state reimbursement for home-to-school transportation allowances for pupils who are enrolled in the regional occupational center or program pursuant to this section.

#### **§46607**

(a) Except as provided in subdivision (b) or (c), the average daily attendance for attendance of pupils from another district shall be credited to the district of attendance for purposes of determining state apportionments and the revenue limit pursuant to Section 42237 or 42238.

(b) For any district that would have a reduction of 25 percent or more in its federal grant pursuant to Public Law 81-874 if the average daily attendance of pupils residing within the district were credited to the district of attendance, then the average daily attendance resulting from an interdistrict attendance agreement shall be credited to the district of residence and the district of residence shall pay a tuition to the district of attendance no later than the next August 31, after the close of the fiscal year as follows:

(1) For attendance in regular day schools and summer schools the tuition per unit of average daily attendance, if any, shall not exceed the actual cost per unit of average daily attendance for the grade level or program less any income, other than tuition, received by the district of attendance on account of such attendance.

(2) The district in which the pupil resides shall reduce its total revenue limit pursuant to Section 42238 by the total excess, if any, of its revenue limit per unit of average daily attendance multiplied by the total interdistrict attendance over the total tuition to be paid to districts of attendance.

The district in which the pupil resides may increase its total revenue limit pursuant to Section 42238 by the total excess, if any, of the total tuition to be paid to districts of attendance over the district of residence's revenue limit per unit of average daily attendance multiplied by the total interdistrict average daily attendance.

(c) For any consortium of school districts operating an adult education and a regional occupational program serving four or more school districts, the school districts may agree to claim the unit of average daily attendance on the basis of the district of residence and pay such interdistrict tuition to the district of attendance as agreed to by the participating districts.

#### **§46609**

The governing board of a unified school district, whose boundaries are coterminous with the boundaries of a county, and which is contiguous to an adjoining state, may provide for the education of all or any number of the high school pupils of the district who reside in the district by the attendance of these pupils at the schools of a school district of an adjoining state. The governing board of the unified school district may enter an agreement with the school district of an adjoining state for the education of these pupils, subject to the terms and conditions agreed upon. The provisions of Sections 2000 to 2011, inclusive, do not apply to pupils educated pursuant to an agreement authorized by this section.

The average daily attendance of pupils educated pursuant to an agreement authorized by this section shall be credited to the district of residence for apportionment purposes. The superintendent of schools of the district, or the principal of the school, in the adjoining state attended by the pupils under such an agreement shall, not later than July 2 of each year, certify, to the county superintendent of schools having jurisdiction over the school district of residence of the pupils, the average daily attendance of the pupils of the district attending the schools of the school district in the adjoining state. Certification shall be made on forms furnished by the Superintendent of Public Instruction. The county superintendent of schools shall report the average daily attendance to the Superintendent of Public Instruction, who shall include the average daily attendance in his report of average daily attendance in all of the duly established schools of the state for the last preceding school year certified by him to the State Controller.

#### **§46610**

(a) (1) Notwithstanding any other law, the Fallbrook Union High School District shall enter into an interdistrict attendance agreement with the Capistrano Unified School District to allow any pupil, at the request of his or her parent or guardian, to attend schools of the Capistrano Unified School District when the pupil resides in the San Onofre housing area of the Marine Corps Base, Camp Joseph H. Pendleton. No more than 150 pupils from the Fallbrook Union High School District may attend school in the Capistrano Unified School District pursuant to this interdistrict attendance agreement.

(2) The Fallbrook Union High School District shall be credited with the average daily attendance of these pupils solely for purposes of receiving federal grants pursuant to Public Law 81-874.

(b) The Fallbrook Union High School District shall pay tuition to the Capistrano Unified School District for the attendance of these pupils only in the amount computed pursuant to paragraphs (1) and (2), as follows:

(1) Divide the amount of funds paid pursuant to Section 3 of Public Law 81-874 (20 U.S.C. 238) to the Fallbrook Union High School District in the current fiscal year by the average daily attendance of the school district in the current fiscal year.

(2) Multiply the amount in subdivision (a) by the average daily attendance, for the year of attendance for secondary school pupils attending the schools of the Capistrano Unified School District pursuant to Section 46610.

(c) Notwithstanding any other law, the amount provided to the Fallbrook Union High School District and the Capistrano Unified School District for the 2012–13 fiscal year pursuant to this section and Section 46111, as these sections read on June 1, 2013, shall be included in the computations made pursuant to paragraph (2) of subdivision (a) of Section 42238.025, paragraph (2) of subdivision (a) of Section 42238.03, and paragraph (2) of subdivision (e) of Section 42238.03. For purposes of calculating funding pursuant to subdivisions (a) and (e) of Section 42238.03, the school district of residence shall be credited with the 2012–13 fiscal year revenue limit funding received for the pupils reported pursuant to this section after accounting for the amount of tuition paid to the school district of attendance. For purposes of calculating

funding pursuant to subdivisions (a) and (e) of Section 42238.03, the school district of attendance shall be credited with the average daily attendance of the pupils reported pursuant to this section in the 2012–13 fiscal year, and the tuition received by the school district of residence pursuant to this section and Section 46611, as these sections read on March 1, 2014.



# San Benito County Office of Education

Krystal Lomanto, County Superintendent of Schools

460 Fifth Street | Hollister | California 95023 | 831. 637.5393 | Fax 831. 637.0140

## Appeal of Denial of Interdistrict Attendance Agreement

(Please print or type all material except signature)

In accordance with Education Code § 46601, and the San Benito County Board of Education Policy, we hereby request a hearing for the purpose of an Appeal of an Interdistrict Transfer Denial.

TO: President, San Benito County Board of Education

Appellant (Parent(s)) \_\_\_\_\_

Residence Address \_\_\_\_\_

Residence Telephone \_\_\_\_\_ Business Telephone \_\_\_\_\_

I am / we are requesting that the San Benito County Board of Education hear an appeal of the denial by the \_\_\_\_\_ School District of an interdistrict attendance transfer request for my/our son(s)/daughter(s) to attend school in the \_\_\_\_\_ School District for the 20\_\_\_\_-20\_\_\_\_ school year.

Student \_\_\_\_\_ Age \_\_\_\_\_ Grade \_\_\_\_\_

Student \_\_\_\_\_ Age \_\_\_\_\_ Grade \_\_\_\_\_

Student \_\_\_\_\_ Age \_\_\_\_\_ Grade \_\_\_\_\_

A "Request for an Interdistrict Permit" was made to the district of residence on \_\_\_\_\_.

The request was denied by the district of residence  and/or requested district  (Choose one)  
(Please include a copy of all correspondence from parent to district, etc.)

The reason(s) for this request is (briefly state your reason(s) for this request, if additional space is needed, please attach additional sheets):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## APPROVAL CRITERIA

Persons making appeals usually feel strongly about their reasons. It is helpful to understand that the Board may only legally approve an appeal if it meets one or more of the three (3) reasons below. When writing your appeal and making your presentation to the Board, consider how the reasons apply to your situation (San Benito County Board of Education Policy No. 5175):

1. A substantial danger to the pupil's health or safety to and from school in the district of his/her residence would be removed or substantially mitigated by his/her attendance in another district. (Any professional opinion offered to substantiate conditions unfavorable to the health or safety of the pupil must be submitted in writing.)
2. The district's decision to deny the interdistrict attendance permit, or failure or refusal to enter into an interdistrict attendance agreement, violates federal and/or state laws, or the district's own policies and regulations, or the district's existing interdistrict attendance agreement.
3. The district's decision to deny the interdistrict attendance permit, or failure or refusal to enter into an interdistrict attendance agreement, was made arbitrarily or capriciously such that the decision is unfairly and overly prejudicial to the applicant.

Written notice of the decision by the County Board of Education shall be mailed to the pupil and the parent or guardian, or person having custody of him/her, and to the governing boards of the districts (E.C. 46602).